

In The Drawings:

Applicant filed herewith a Petition for using color photographs.

The attached three sets of replacement drawings, which include FIGs. 4A-4B and 5-8, are executed in color. Please substitute the attached color drawings for the originally-filed black and white line drawings. The statement required for using color drawings is already provided in the first paragraph of the brief description of the drawings section of the specification at page 5.

REMARKS

I. Present Status of the Application

The Office has withdrawn the rejections of claims 1-15 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The Office has reminded the Applicant of submission of color drawings.

Currently, the Office has acknowledged a claim for priority based on a prior-filed application (No. 60/444,775) and pointed out that the disclosure of the prior-filed application fails to provide adequate support or enablement based on 35 U.S.C. 112, first paragraph for claims of the present application.

The Office has rejected claims 6 and 15 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

The Office has rejected claim 15 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Office has rejected claims 1-5 and 7-15 under 35 U.S.C. 103(a) as being unpatentable over Lin et al. (US 6,436,709, referred to hereinafter as "Lin") in view of Tomalia et al. (US Pub. 2002/0013283, referred to hereinafter as "Tomalia").

The Office has rejected claim 6 under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Tomalia, and further in view of Wu et al. (WO 01/29233, referred to hereinafter as "Wu").

In response thereto, Applicant has amended claims 1, 6 and 11, and cancelled claim 15 to comply with the disclosure of the prior-filed application (No. 60/444,775) for receiving priority and overcome the rejections. In addition, Applicant has replaced the originally-filed black and white line drawings by color drawings to comply with the description in the specification. It is believed that no new matter is added by way of the amendments made to the present application. After entry of the proposed amendments, it is submitted that the presently pending claims 1-14 are placed in proper condition for allowance, and reconsideration of all pending claims is respectfully requested.

II. Regarding the Priority Issue

The Office has pointed out Applicant has not complied with conditions for receiving the benefit of an earlier filing date based on a prior-filed application (No. 60/444,775), because the disclosure of the prior-filed application fails to provide adequate support or enablement based on 35 U.S.C. 112, first paragraph for claims of the present application.

For receiving the priority benefits of U.S. provisional application titled "GOLD PARTICLE-FREE GENE GUN BY FLUID FLOW- BOMBARDMENT" filed on February 3, 2003 (No. 60/444,775), claims 1 and 11 have been amended by correcting the condition of pressure respectively, in compliance with the disclosure of the prior-filed application. The term "a pressure lower than 4 atm" recited in previously-presented claims 1 and 11 have been replaced by the term "a pressure equal to or lower than 100 psi" respectively to redefine the feature of the claimed invention. The supporting ground for the amendments made to claims 1 and 11 can be found at

least in the descriptions on page 18 paragraph [0041] lines 3-5, on page 20 paragraph [0056] line 12, and page 21 paragraph [0063] lines 15-16 of the present specification.

It is believed that the disclosure of the prior-filed application and the amended claims in the present application are sufficient to comply with the requirements of 35 U.S.C. 112, first paragraph. Accordingly, Applicant asserts that the presently-claimed invention should be entitled to the priority benefits of the prior-filed application, and thus has an earlier effective filing date of February 3, 2003.

In addition, it should be noted that the Bellhouse reference WO/94/24263 (previously made of record), cited in the Office Action mailed on May 31, 2006, teaches “burst pressures of 42, 61 and 100 atmospheres produced penetration depths of 38, 50 and 70 units respectively” in lines 16-17 of page 7. In other words, the pressure established in the delivery system of the previously-cited Bellhouse reference is much higher than 100 psi (~6.8 atm) claimed in the present invention.

III. Discussion of Claim Rejections under 35 U.S.C. 112, First Paragraph and Second Paragraph

Claims 6 and 15 have been rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

Claim 15 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

After carefully considering the remarks set forth in this Office Action, Applicant has amended claims 6 and cancelled claim 15 to overcome these rejections. More specifically, the limitation of “for cancer immunotherapy” recited in originally-filed claim 6 has been cancelled, and claim 15, directed to a use of the nucleic acid for gene therapy, has also been cancelled.

Therefore, Applicant asserts that the rejections under 35 U.S.C. 112, first and second paragraph are no longer proper, and withdrawal of these rejections is respectfully requested.

IV. Discussion of Claim Rejections under 35 U.S.C. 103

Claims 1-5 and 7-15 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Tomalia.

Claim 6 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Lin in view of Tomalia, and further in view of Wu.

The present application claims the priority benefits of U.S. provisional application filed on February 3, 2003 (No. 60/444,775). The Lin reference, by contrast, is patented on August 20, 2002,

which is not one year earlier than the priority date of the present application on February 3, 2003 benefited from the prior-filed application (No. 60/444,775). Since the cited reference Lin is patented within one year prior to the effective filing date of the present application, Applicant remarks that Lin indeed is an invalid prior art reference qualified under 35 U.S.C. 102(b).

For at least the aforementioned regards, Applicant respectfully submits that all rejections under 35 U.S.C. 103(a) should be traversed and rendered moot, and all pending claims 1-14 are believed to distinctly and patentably define over the prior art of record.

Hence, favorable consideration and allowance of the present invention and all pending claims are hereby courteously solicited.

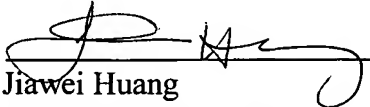
CONCLUSION

For at least the foregoing reasons, it is believed that all pending claims are in proper condition for allowance. If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

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Respectfully submitted,
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